

Jan Urbahn, General Manager
Safety Engineering and Intelligent Transportation Systems
BMW Group of North America, LLC
PO Box 1227
Westwood, NJ 07675-1227

MAR - 7 2011

Re: Confidentiality Determination/PE10-020

Dear Mr. Urbahn:

This responds to your September 24, 2010 request for confidential treatment for BMW Group of North America, LLC (BMW) information submitted in response to an information request (IR) from the National Highway Traffic Safety Administration's Office of Defects Investigation (ODI). BMW supplemented its request on September 28, 2010, October 8, 2010, and February 3, 2011. Specifically, BMW requests confidential treatment for documents set forth in the table on page 2 of your original September 24, 2010 request, which you describe as, among other things, design and test data, technical specifications, and material property information. BMW requests confidential treatment indefinitely.

Your request is granted.

The information provided by BMW was requested pursuant to 49 USC § 30166, which authorizes the agency to conduct investigations and require manufacturers to submit reports. Because BMW was required to submit this information, I have examined your submission using the competitive harm standard set forth in *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974).

I have reviewed your submission, including the materials that you claim are entitled to confidential treatment and the arguments that you assert in support of your claim. I have concluded that the public release of the materials contained in BMW's submission would be likely to cause substantial competitive harm to your company and, therefore, that this information is entitled to confidential treatment pursuant to Exemption 4 of the Freedom of Information Act, 5 USC § 552(b)(4).

This grant of confidential treatment is subject to certain conditions. The information may be disclosed under 49 CFR § 512.22 based upon newly discovered or changed facts, and you must inform the agency of any changed circumstances that may affect the protection of the information (49 CFR § 512.10). If necessary, you will be notified prior to the release of

any information under the procedures established by our regulations (49 CFR § 512.22(b)). Furthermore, this information may be disclosed if such disclosure would be in the public interest, pursuant to the procedures established in 49 CFR § 512.23.

Sincerely,

Original Signed By

Otto G. Matheke, III
Senior Attorney

